

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

WENDELL DWAYNE BRAXTON,

Plaintiff,

v.

CIVIL ACTION NO. 2:16-cv-01899

CAROLYN W. COLVIN,
Acting Commissioner of the
Social Security Administration,

Defendant.

MEMORANDUM OPINION AND ORDER

Before the Court is Plaintiff Wendell Dwayne Braxton's Complaint seeking review of the decision of the Acting Commissioner of Social Security, Carolyn W. Colvin ("Commissioner") (ECF No. 2). By Standing Order entered January 4, 2016, and filed in this case on March 4, 2016, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Tinsley filed his PF&R (ECF No. 15) on January 6, 2017, recommending that this Court **REVERSE** the final decision of the Commissioner and **DISMISS** this matter from the Court's docket.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir.


1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a *de novo* review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections to the PF&R were due on January 23, 2017. To date, no objections have been filed.

Accordingly, the Court **ADOPTS** the PF&R (ECF No. 15), **GRANTS** Plaintiff’s Memorandum of Law in Support of Plaintiff’s Complaint for Review of the Decision of the Commissioner of Social Security (ECF No. 12) to the extent it seeks remand of the Commissioner’s decision, **REVERSES** the final decision of the Commissioner, **REMANDS** this action pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings consistent with the PF&R, **DISMISSES** the Complaint (ECF No. 2), and **DIRECTS** the Clerk to remove this case from the Court’s docket.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: January 30, 2017



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE